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NATIONAL POST

Fighting terrorism in court

Israeli lawyer sues in bid to cut off funds to Palestinian Authority

John Turley-Ewart
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"Can Palestinians sue the state of Israel?" Such a question is not often posed to Nitsana Darshan-Leitner, a 29-year-old, high-powered legal crusader for Israeli and U.S. victims of Palestinian terrorism. Without so much as a pause, the petite Israeli advocate told the assembled law students at the University of Toronto this month that Palestinians can sue the state of Israel and some do. She added when Israel has mistakenly injured or killed innocent Palestinians in its war against terrorism, it "takes responsibility and pays."

Darshan-Leitner is now trying to make the Palestinian Authority do the same and cut off the money she believes it uses to fund terrorism.

A pioneer in this legal war against terrorism who would be as comfortable posing for Glamour magazine as she is using the courts to stop terrorism, Darshan-Leitner gave the future lawyers a small dose of the drive and determination that has helped to shake up Israel's legal establishment and break new ground in international law.

Her latest legal triumph came recently when the international legal team she works with won a landmark decision in Rhode Island. For the first time in the United States, a federal district court declared the Palestinian Authority cannot claim sovereign immunity under the U.S. Antiterrorism Act of 1991. A US\$250-million lawsuit against the PA by the U.S. family of Yaron and Efrat Ungar, who Darshan-Leitner says was killed in a Palestinian-sponsored terrorist attack perpetrated by Hamas, can proceed.

Darshan-Leitner has three objectives in what seems to be her own war against terrorism: Win compensation for terror's casualties, bankrupt terrorist organizations in the process and expose what she describes as the European Union's reckless US\$10-million monthly payment to the PA, which she says helps fund terrorism.

"Sixty years after the Holocaust," she alleges, "Europe has once again the blood of Jews on its hands."

Darshan-Leitner's pique at the EU was palpable as she explained the heart-wrenching case of Steven Bloomberg, a British citizen and physicist who lost his wife, Techiya, a mother of five and five-months pregnant, in a terrorist attack carried out, Darshan-Leitner said, by Palestinian policemen in August, 2001, in the West Bank settlement of Ginot Shomron.

Bloomberg and one of his daughters sustained severe spinal injuries in the attack and must now use wheelchairs. Darshan-Leitner has brought a US\$20-million suit against the EU in an Israeli court and is arguing the salaries of the PA policemen involved were paid by the EU, the police car they were driving was bought with EU money and "the bullets that were shot into the [Bloomberg] car were purchased with the EU's money."

Darshan-Leitner believes the EU knows or should have known this and that the US\$1.5-billion it has donated to the PA since 1994 has paid for terror attacks on Israel.

The Bloomberg case has been bolstered by evidence uncovered this year in Operation Defensive Shield by the Israeli army, which found what Israel says is very strong evidence showing Yasser Arafat and his government were using EU money to support terrorism.

In the past, the European Union has claimed there is no proof its funding has gone to support terror but in response to Bloom-berg's case, EU representatives refuse to defend that stand in court, claiming diplomatic immunity. This response has only strengthened Darshan-Leitner's resolve. She says the EU should "go to court if it has nothing to hide; it should go to court if it knows how its money is being spent and show us its hands are clean."

Among her many cases, Darshan-Leitner is representing the family of Vadim Nordizh, one of two Israeli military reservists who were beaten to death in a Ramallah police station in October, 2000, after they lost their way trying to reach their unit.

Those involved in the killing of the two reservists have been arrested by the Israelis and Darshan-Leitner wants compensation for Nordizh's family. It should come, she thinks, from the near US\$400-million Israel has collected on behalf of the PA in the form of various taxes and which Israel stopped paying over to the PA when the intifada began in the fall of 2000.

Recently, Darshan-Leitner won another landmark decision, this time in an Israeli court, which granted a pre-emptive lien on Palestinian assets. This ensures that if the PA is found to share responsibility in the death of Nordizh, there will be PA assets available as compensation.

In an interview, Darshan-Leitner, stylishly dressed in a well-cut black suit, explained in greater detail the legal inspiration behind her use of the courts to try to root out terrorism. It comes from Morris Dee and the Southern Poverty Law Center. Dee, a white lawyer from Alabama, founded the centre in 1967 and has used it to go after the wallets of racists. He eventually won the largest judgment awarded against a hate group, a US\$37.9-million award, after successfully suing the Christian Knights of Ku Klux Klan for conspiracy to burn a black church.

This example, Darshan-Leitner said, showed how the courts could be used to preserve human rights.

Besides cases involving victims of terrorism, the lawyer, who operates out of her office in the Israeli city of Modi'in, has also represented clients in politically explosive cases. Her first case involved an Israeli belly dancer who accused the Egyptian ambassador to Israel of sexual assault. The case was dismissed when the ambassador allegedly claimed diplomatic immunity. She also represented Samuel Sheinbein, who fled to Israel after he murdered an acquaintance in Maryland. The U.S. government wanted Sheinbein extradited to face justice in Maryland, but Darshan-Leitner successfully argued against his extradition, although an Israeli court did find him guilty of the murder. That case prompted changes in Israeli laws allowing for the extradition of criminals.

These changes led to the extradition of Daniel Weiz to Canada from Israel in October, 2000. Weiz is charged along with two teens with second-degree murder in the 1999 beating death of Dmitri (Matti) Baranovski by a group of masked youths who approached him and his friends for cigarettes and money.

Darshan-Leitner fought for nearly a year to prevent the extradition of Weiz, who was in Canada visiting his father at the time of the murder and returned to Israel where he lived.

Darshan-Leitner condemned Canadian officials during the Israeli court proceedings that led to Weiz's extradition, saying police in Toronto withheld information. While she does not condemn the Canadian justice system, she stood by her client's claim of innocence and told the Post, "if he receives a fair trial in Canada, [Weiz] will be found not guilty."

When she has the time, Darshan-Leitner plays the piano and is enthralled by a particularly fitting sport given her work – boxing.

Before leaving the lecture hall and the law students, the determined lawyer cited a passage from the Torah: "Don't stand idly by your brothers' blood." Darshan-Leitner has taken this to heart, and through the courts in Israel and the United States has launched her own war to stop terrorism against Israel.

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